United Nations CCPR/C/SR.2784

International Covenant on Civil and Political Rights

Distr.: General
25 August 2011

Original: English

Human Rights Committee
101st session

Summary record of the 2784th meeting
Held at Headquarters, New York, on Monday, 21 March 2011, at 3 p.m.

Chairperson: Ms. Majodina

Contents

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Fifth periodic report of Mongolia

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Chief, Official Records Editing Section, room DC2-750, 2 United Nations Plaza.

Any corrections to the record of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

11-27107 (E)

Please recycle

The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Fifth periodic report of Mongolia
(CCPR/C/MNG/5, CCPR/C/MNG/Q/5 and Add.1)

1. *At the invitation of the Chairperson, the members of the delegation of Mongolia took places at the Committee table.*

2. **Mr. Bayasgalan** (Mongolia), introducing the fifth periodic report of Mongolia, said that, among the most significant recent events, in January 2010, the President had announced a moratorium on the death penalty. Capital punishment had been abolished unofficially since 2009 because, according to the Constitution, anyone sentenced to death could apply to the President for pardon and thus far, it had always been granted. Nevertheless, capital punishment remained in the Criminal Code as the penalty for seven types of crime. Mongolia was, however, planning to accede to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, and the corresponding draft legislation had been submitted to Parliament for consideration.

3. In February 2011, a law on gender equality had been enacted in order to establish a legal basis for ensuring equality in all spheres. While not regulating the question of equal representation, it provided for equal financial support for male and female candidates in elections and established minimum quotas for women in government departments and agencies.

4. **The Chairperson** invited the members of the Committee to put questions to the delegation in connection with questions 1 to 16 in the list of issues (CCPR/C/MNG/Q/5).

5. **Mr. Iwasawa** said that Mongolia was to be commended because it was a party to most of the United Nations core treaties. further information on the Mongolia rules recently adopted on timely reporting to the treaty bodies would be appreciated. The Committee had considered the State party's fourth periodic report more than 10 years previously, in 2000, and the opportunity to resume the dialogue was very welcome. The Government had provided written replies to all the issues, but some responses were not detailed enough and were limited to explaining Mongolia's laws rather than expanding on the implementation of the Covenant in the country. In article 40, paragraph 2, of the Covenant, State parties were asked to indicate in their reports the factors and difficulties affecting the implementation of the Covenant. and he therefore looked forward to a frank discussion on factors affecting its implementation in Mongolia.

6. The Committee had noted with satisfaction a number of positive developments, including the establishment of the National Human Rights Commission in 2001 and the Committee for the implementation of the national gender equality programme in 2005, and various policy measures, such as the national programmes to combat domestic violence and the trafficking of children and women, to promote gender equality and to support people with disabilities. It was nevertheless monitoring the effectiveness of those policy measures with interest and concern.

7. With regard to question 1 in the list of issues, the Committee understood that, under the Constitution, international treaties to which Mongolia was a party became effective as domestic legislation; thus, the Covenant had the force of law in Mongolia. However, the Constitution also stipulated that Mongolia should not abide by any international treaty that was incompatible with its Constitution, which appeared to mean that the Constitution prevailed over international treaties. Consequently, the delegation should clarify the status of the Covenant in relation to domestic law and whether the Covenant was applicable directly and could be invoked by the courts. It would also be useful to know whether the Covenant had been invoked by parties before the courts, or by the courts themselves, and whether it could be invoked before the Constitutional Court. The Committee had been informed of a case in which the parties had invoked human rights treaties before the courts and, as a result, the defendant had received a heavier penalty.

8. There had been allegations that the National Human Rights Commission was neither independent nor impartial. Hence, the delegation should clarify how the commissioners were appointed and who appointed them, as well as its role and responsibilities, since the Committee understood that it mainly conducted research and training. It would also be useful to know if the Commission could address specific human rights violations and whether its budget allowed it to function independently.

9. Parliamentary elections had been held in June 2008 and the post-election protests had evolved into a riot. As a result, a state of emergency had been declared which had lasted four days and it had been alleged that many human rights violations had been committed by law enforcement officials while it was in force. Over 700 people had been arrested, 450 of them had been investigated, around 300 charged and 270 sentenced to varying terms of imprisonment. Many detainees had allegedly been beaten and forced to sign self-incriminating statements, and there had been numerous instances of unnecessary and excessive use of force by the police. At least nine people had been shot; four had been killed by gunfire and one had died of smoke inhalation. The Committee would appreciate it if the delegation could confirm and comment on those facts.

10. The Committee had asked the State party whether the perpetrators of the human rights violations had been brought to justice and whether the victims had received adequate reparation (question 2). The written replies cited the 2009 and 2010 Amnesty Laws and article 91 of the Criminal Code and the delegation should provide the Committee with the full text of those laws. In the case of the four people shot dead, the State party had indicated that an investigation had been conducted involving six police officers and four of their superiors, but the cases against the six officers had been dropped owing to insufficient evidence; the reasons for the decision not to prosecute them required clarification. The four superior officers had been released under the 2010 amnesty law. The delegation should explain whether it was a general amnesty law, why it had been enacted, and in what way the four superior officers had fulfilled the law's requirements. The Committee would appreciate confirmation of the fact that the case against those four officers had been reopened.

11. In the case of the individual who had died from smoke inhalation had been discontinued under the 2009 Amnesty Law. It would be useful to know how many police officers had been questioned in relation to the case and, again, whether it was a general amnesty, why it was enacted, and what the requirements were for granting amnesty.

12. In addition, the delegation should explain how the application of amnesty laws to the acts of police officers during the events of July 2008 was compatible with article 2, paragraph 3 of the Covenant which required that any person whose rights had been violated must have an effective remedy. He also asked about the role played by the National Human Rights Commission at the time and whether it had expressed concern about human rights violations.

13. The written replies stated that compensation to victims was assessed on the basis of the degree and characteristics of their injuries. The delegation should confirm that compensation was sufficient in comparison with amounts awarded in other cases.

14. With reference to the issues relating to non-discrimination and equal rights of men and women (questions 3 to 6), traditional discriminatory practices relating to the roles and responsibilities of women in the family and in society were a matter of concern to the Committee. It had taken note of the Government's efforts to eliminate gender inequality but it was unclear whether the draft law on gender equality that included a definition of direct and indirect discrimination had been enacted. Furthermore, the Committee would welcome an explanation of why the 2007 revision of the national programme on gender equality to include a more rights-based approach had not been approved.

15. The Committee understood that the law on parliamentary elections had been amended in December 2005 to include a provision requiring that at least 30 per cent of party and coalition candidates were women. it would be interesting to know why that had been annulled prior to the 2008 elections. The percentage of women elected to Parliament had decreased in recent years. The Committee would appreciate an explanation for the decline, which could indicate the continuing existence of de facto discrimination in Mongolian society.

16. The National Human Rights Centre was headed by a woman but, despite high levels of education and active participation in the labour market, women were under-represented in political decision-making positions and it would be interesting to know why. Furthermore, women constituted 51 per cent of the total workforce, but were mostly employed in low-paid jobs. How did the Government intend to address that problem?

17. The lesbian, gay, bisexual and transgender community had reported widespread human rights abuses by both the public and private sectors. Discrimination included denial of human rights in areas such as employment, health, housing, freedom of

association and peaceful assembly. Recently, physical and sexual attacks on transgender persons had allegedly been perpetrated by ultra-nationalists and the community was also subjected to surveillance and arbitrary arrest by law enforcement officials. The Committee noted with satisfaction that some measures were being taken to address such difficulties, and the Government should intensify awareness-raising campaigns to counter discriminatory attitudes among law enforcement officials and the wider public. The Mongolian Constitution established that no person could be discriminated against on the basis of sex; did that include the prohibition of discrimination based on sexual orientation? Also, how many people in Mongolia had HIV/AIDS and were they discriminated against?

18. **Ms. Keller** said that the enactment of the gender equality law was commendable; however, the State party's response did not answer the original question, which was whether the State party intended to adopt comprehensive anti-discrimination legislation. and she would be grateful for any additional information the delegation should provide on that subject. It would also be useful to know whether the State party had collected statistical data for monitoring national implementation of the rights set out in the Covenant, especially in relation to discrimination. non-governmental organizations (NGOs) had reported alarming statistics on people with disabilities, including children, and the Committee would appreciate additional information in that regard.

19. Further information was also required on the financial and human resources allocated to the national gender equality programme (question 4) and the specific measures needed to implement it. It would be useful to know what the State party was doing to ensure equal rights for women in the area of employment, including equal pay for work of equal value, and to strengthen maternity protection and address domestic and sexual violence. She also asked whether the State party intended to criminalize marital rape and sexual harassment and, lastly, what the State party intended to do to ensure that public officials were fully familiar with the relevant legal provisions concerning violence against women.

20. On the issue of states of emergency (question 7), the State party had affirmed in its written replies that it was incorrect to conclude that Mongolia did not abide by the Covenant because some of its provisions were not referred to specifically in the Constitution. She would be interested to know how the Covenant rights were protected by law and in practice if they were not expressly protected in the Constitution.

21. **Mr. Thelin** said it was encouraging that Parliament was taking steps to accede to the Second Optional Protocol; however, the delegation should clarify when the ratification procedure would be completed. It would be difficult to abolish capital punishment if public opinion was in favour of retaining it. What measures were being taken to raise public awareness in that regard?

22. The Prosecutor General's Office had apparently instigated new proceedings against the 10 police officers involved in the incidents that occurred during the 2008 state of emergency. The delegation should confirm that a review was under way and advise the Committee as to the possible outcome. It was unclear whether it was merely a pro forma review, or whether it was more serious and could result in indictments and proceedings. Some NGOs had suggested that the handling of the case against the law enforcement officers accused of injuring and killing demonstrators contrasted sharply with the treatment meted out to the demonstrators themselves. It was reported that some 270 individuals had been convicted and sentenced to varying terms of imprisonment; and that multiple human rights violations had been committed in connection with their trials. For example, the court proceedings had been closed on the pretext that minors were involved; due process had not been respected, and standards of evidence had not been as rigorous as in the investigation of the law enforcement officers. In particular, it appeared that those defendants whose lawyers had invoked international covenants and treaties, including the Covenant, had been given harsher sentences than the others. The Committee would appreciate the delegation's comments on those allegations. In addition, it would be useful to know how many trials had been held for the 270 defendants, and to compare the number of indictments with the number of convictions because, if some defendants had been acquitted, it was a sign that the justice administration system was working.

23. Regarding the number of complaints received concerning cases of ill-treatment and torture (question 10), the Committee required clarification of the State's written reply. It appeared that 205 complaints had been received over the period from

2003 to 2010; 143 of them had been dismissed and 35 cases had been decided on the merits. However, it was unclear whether the outcome had been a conviction or an acquittal and why over half the complaints had been dismissed. Moreover, several NGOs had alleged that the number of complaints filed had been much higher, perhaps as high as 500 or 600. The delegation should indicate possible reasons for the significantly higher numbers provided by the NGOs. It appeared that the State party had not replied to question 10(4) concerning remedies and he asked whether the victims had received compensation.

24. NGOs also claimed that the Investigation Unit of the Prosecutor General's Office was understaffed, under-resourced and lacked formal authority to challenge the police during investigations. Furthermore, the wording of the Criminal Code meant that some officials appeared to fall outside the scope of an investigation into torture and ill-treatment; for example, one official could not be investigated because of his special functions. it was a cause for serious concern that there was an officer within the police system who was virtually immune to prosecution and investigation by the State. The Committee would appreciate clarification of the situation.

25. In that regard, the Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment had recently issued concluding observations in which it had recommended the immediate repeal of article 44.1 of the Mongolian Criminal Code which appeared to exempt individuals from investigation in cases of torture if they were carrying out mandatory orders. It would be useful to know whether any progress had been made in that regard and why there was no independent and impartial mechanism in the State party's system to investigate allegations of torture and mistreatment by police officers.

26. From the written reply to question 11 on the training of law enforcement, judicial and prison officials and lawyers, it appeared that no coordinated and systematic efforts had been made to ensure appropriate training, especially since those currently providing the training were part of the system and might be subject to allegations of torture. The Committee would prefer to see an outside body engaged to train law enforcement personnel and asked whether the State party was considering that option. He was glad to hear that "sobering-up" cells were monitored by video, but would like to know the proportion of such cells in relation to regular cells in police stations and whether they were in a separate unit. In addition, the delegation should clarify whether the information was stored for later use in investigations and whether victims wishing to press charges could have access to it. Lastly, the State party should indicate whether video and audio monitoring and the recording of interrogations had been introduced.

27. **Mr. Salvioli** said that he had been surprised to read in the written reply to question 12 that, following the state of emergency, members of the Mongolian parliament and Ms. Salongo, Chairman of the National Human Rights Commission, had visited detention centres and the latter had stated publicly that the actions taken by the centres were fully in conformity with the relevant legislation and there were no signs of torture. The United Nations Committee against Torture had clearly reached a different conclusion, and one NGO maintained that 88 out of every 100 people detained had suffered some type of ill-treatment. Other reports by NGOs provided detailed accounts of the use of physical force and threats against detainees, including minors and pregnant women and, allegedly, at least 44 individuals had been charged solely on the basis of confessions made in the absence of legal assistance. Consequently, Ms. Salongo's statement raised serious concerns about the Commission's independence. The delegation should indicate whether the State party had undertaken an independent investigation, as it was obliged to do under the Covenant and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, and whether the investigation had complied with the standards of the Istanbul Protocol. Ill-treatment or torture had physical and emotional consequences and often detainees did not feel free to say they had suffered ill-treatment, especially when the investigating body was not independent.

28. According to the written replies (question 13), no one had been detained without a judicial order from 2007 to 2009. However, other sources had provided contrary information and further clarification of the issue was required. The Committee would also appreciate information on whether steps had been taken to end the special isolation regime for long-term prisoners (question 16), and whether the existing regime was in keeping with the relevant United

Nations standards on the treatment of prisoners and the 2010 recommendations of the Committee against Torture. Lastly, if the standards were being met, it would be useful to know how the situation was being monitored. He understood that the State party allowed Amnesty International to visit some detention centres; was the State party considering expanding that possibility to other human rights protection bodies?

29. **Mr. Rivas Posada** said that the Committee would appreciate further information on how places of detention were monitored (question 14). According to the written reply, Mongolia did not have an independent monitoring system and it would be useful to know whether the State party was considering creating such a mechanism. The Committee was also concerned about overcrowding in detention centres and prisons, particularly Denjiin Myanga, which, it seemed, might be closed down. Could the delegation explain what plans the Government had to resolve the problem of overcrowding and whether it was considering measures other than detention, such as parole, in order to alleviate the situation?

30. The Committee had always insisted on the importance of establishing the shortest possible periods of detention by the police or administrative authorities, including detention prior to charges being brought and pretrial detention (question 15). Clarification should be provided as to the maximum time allowed for police detention, whether that period could be extended, and how detention prior to the final judgment operated in practice. The 2002 Code of Criminal Procedure established a maximum period of 30 months but it was unclear whether that provision remained in force or had been amended.

31. **Ms. Motoc** said that women appeared to be underrepresented at the political level (5). The Committee had received reports that Parliament had rejected a proposal that the country reinstate the 30 per cent quota system for women candidates, and it would appreciate further information in that regard.

32. Many complaints had been received from the lesbian, gay, bisexual and transgender community (question 6) that their rights were being violated and that they were victims of discrimination. She asked whether the Government was considering conducting awareness-raising activities for police and court officials, whether it planned to introduce specific legislation prohibiting discrimination against individuals with a different sexual orientation, and if it would have to overcome adverse public opinion. The delegation should clarify the reports suggesting that associations could be constituted that worked towards goals contrary to the Covenant. The universal periodic review had raised questions with regard to people with disabilities, especially children. There were reports that they faced difficulties such as abandonment, and lack of access to health care and other services.

33. It appeared almost impossible to obtain proof that someone had been tortured that would be acceptable to the courts; in addition, many reports indicated that obtaining evidence by means of torture was still allowed. The Committee would appreciate information on any measures the State party was proposing to take in that regard.

34. She understood that large numbers of people had been trafficked in Mongolia and the delegation should explain what measures were being taken in that regard, and the nature of the trafficking or slavery. The Criminal Code had specific provisions on the trafficking of children, but it was unclear whether Mongolia was using international covenants to end such practices.

35. With regard to freedom of religion, there were reports that some foreign religious groups had been banned and she would welcome more information in that regard, and also in relation to the problem of corruption among judges and in the judicial system in general in relation to article 14 of the Covenant.

The meeting was suspended at 4.30 p.m. and resumed at 5 p.m.

36. **The Chairperson** invited the members of the delegation to reply to the questions posed by the members of the Committee in connection with questions 1 to 16 in the list of issues (CCPR/C/MNG/Q/5).

37. **Mr. Bayasgalan** (Mongolia) said that, on behalf of Mongolia, he wished to express solidarity with Japan following the earthquake and tsunami which had caused such catastrophic damage.

38. Responding to the questions raised regarding the constitutional and legal framework within which the Covenant was implemented, he said that the Government of Mongolia had approved legislation on the application of international conventions, identifying agencies and institutions responsible for implementing the relevant provisions of each convention in order to ensure the timely fulfilment of its reporting obligations.

39. Mongolia had been a party to the International Covenant on Civil and Political Rights since 1990. However, the challenges it faced with regard to ratification of the Second Optional Protocol had to be taken into consideration. First, it was necessary to improve the general public's understanding and perception of the Covenant and to train the relevant authorities on its provisions. Mongolia required expertise and advice in that regard and would welcome the Committee's assistance.

40. According to the Constitution, the international treaties to which Mongolia was a party had the same status as domestic law and, in February 2008, the Supreme Court had issued a special decision recommending that all courts apply the provisions of international treaties. However, he could not recall any specific case where international treaties had been applied in the domestic courts. The Constitutional Court had full powers to make comments and recommendations on the provisions of international treaties and had applied an international treaty in one case.

41. In relation to the questions about the National Human Rights Commission, he indicated that, by law, the Commission was composed of three members with six-year mandates; members must be Mongolian nationals and one member was appointed by Parliament. Should a member be assigned to other functions or become involved in unlawful activities, he or she would be dismissed. The law also established the procedure for filing a complaint before the Commission.

42. The mandate of the National Human Rights Commission gave it full powers to investigate all human rights violations and any person obstructing the Commission's work would be punished under the applicable laws. It had the right to choose the matters it examined and to produce comments and recommendations on whether legislation was in compliance with human rights provisions. It monitored and provided comments on the implementation of international human rights treaties and conventions and produced an annual report on the national human rights situation. Regarding complaints, the Commission had full authority to participate in any proceedings and to terminate practices that violated human rights. All institutions mentioned in its comments and recommendations were obliged to comply with the relevant laws.

43. The Commission had a staff of 20 persons and Parliament approved the annual budget, which, to date, had never been reduced. Clearly it was necessary to take a comprehensive approach to strengthening the Commission by improving the legal framework for its functions, and increasing the number of its members.

44. In relation to the events of July 2008, the Government had similar information to that obtained by the Committee. Nevertheless, it should be borne in mind that the defendants had been sentenced not because they had participated in the demonstration, but rather because they had been involved in crimes, such as murder, robbery, assault and arson.

45. During the events, the National Human Rights Commission had exercised its responsibilities in accordance with its legal mandate and had visited some detention centres to investigate whether the police had committed any human rights violations. Ms. Salongo, together with members of the parliamentary subcommittee on human rights, had indeed visited detention centres immediately after the events of July 2008. All the information about the circumstances had been reviewed, but he was not in a position to make any remarks or draw conclusions about the comments made after their visit.

46. As for compensation for the victims of the demonstrations, a special law had been enacted in September 2009 to regulate the procedures for filing and deciding complaints, with specific provisions on compensation. In the case of death, family members were entitled to receive around $40,000; and in the case of injury, depending on its extent, the victim was entitled to a maximum compensation equal to 36 times the monthly salary. As to whether the compensation was sufficient, Mongolia had made a comparative study to determine the amount. It had been informed that members of the United Nations peacekeeping forces were entitled to a death benefit of up to $50,000; thus the amount of the compensation offered to the victims was similar to that offered by the United Nations.

47. The 2009 amnesty law was unrelated to the events of July 2008. It had been enacted immediately after the new President took office and one of its provisions was to offer pardon to all those sentenced to less than five years' imprisonment in criminal proceedings. Since the events in question had occurred

before 2009, all prisoners whose sentences complied with the law's requirements had received a pardon.

48. In answer to the Committee's questions on women's participation in society and the gender equality law (questions 3 to 6 in the list of issues), he said that the law, which was very comprehensive and covered every area of human rights from the gender perspective, had been enacted in February 2011. It prohibited any form of gender-based discrimination in all spheres and would be implemented gradually over the next two or three years.

49. Regarding the decline in the percentage of women parliamentarians, he said that Mongolia had decided to link the issue of the quota for female candidates to the electoral law. He assured Ms. Motoc that the political will existed to ensure that women held 30 per cent of posts at the political decision-making level. Currently, Mongolian elections were decided using the majority system; however, several political parties advocated a mixed election system (with half the seats elected by proportional representation and the other half by majority vote) to ensure adequate representation of women in Parliament; the respective draft legislation would be considered during the spring session.

50. Some progress was being made on the issue of lesbian, gay, bisexual and transgender rights (question 6). An official NGO representing the community had been registered, and efforts were under way to raise public awareness; for example, the commercial television channel had conducted a series of talks about the issue. A preliminary cooperation agreement had been concluded with that NGO for the provision of training to police officers and law enforcement officials, and the matter would be included in the curriculum of the police academy and other training institutions. Conversations had also been held with the community's representatives in Geneva in that regard. There was no record of hate crimes against the community and discrimination based on sexual orientation was prohibited by the Constitution.

51. Since Mongolia did not have special legislation concerning the lesbian, gay, bisexual and transgender community, the matter was dealt with under the provisions of relevant laws. The Government recognized that there was a clear need for specific legal regulation of the community's issues, but it had a very limited understanding of what was involved and requested the necessary technical assistance and support. Nevertheless, a comprehensive anti-discrimination law was being developed. There was no record of organizations working against the community; however, there were negative attitudes towards it throughout Mongolian society and both the Government and NGOs accorded high priority to raising the awareness of the general public.

52. Responding to Ms. Keller's concerns about persons with disabilities, he said that the Government had updated the relevant statistics and, based on the results, was taking measures to monitor the situation. In 2010, it had launched a campaign to create an accessible environment for persons with disabilities which had identified a number of challenges and resulted in the definition of cooperation initiatives with NGOs working in that area. The Government had made specific commitments and was planning to submit the first report on the implementation of the human rights of persons with disabilities in May 2011.

53. His Government accorded high priority to the issues of maternity protection and domestic violence. It had enacted a special law to combat the latter, and had established a working group to draft amendments to family law, to be considered by Parliament at its next session. Furthermore, sexual harassment was considered a criminal offence and would be included in the Criminal Code.

54. On the issue of the rights restricted during states of emergency (question 7) and whether the Constitution included relevant provisions, Mongolia referred to international conventions in that regard. Under domestic legislation, secondary laws defined the provisions of constitutional law in greater detail; in other words, the law on states of emergency and the Criminal Code, the texts of which could be provided, established definitions of specific crimes.

55. Draft legislation had been submitted to Parliament with regard to ratification of the Optional Protocol on the abolition of the death penalty (question 8) and had been examined by the legal affairs, and the national security and foreign policy standing committees, both of which had endorsed it. Parliament was currently in recess; but it would consider the issue during the spring session. If approved by Parliament, domestic law would be amended as necessary. Public opinion was divided on the matter, but the Government was in favour of abolition and the President of Mongolia

would be playing a crucial role in changing the attitude of society. Nevertheless the issue was very challenging, and would require significant time and effort.

56. The Investigation Unit of the Prosecutor General's office had started to reinvestigate the case of four senior police officers involved in the events of July 2008 (question 9); the case would be transferred to the courts for consideration when the investigation was complete. A number of working groups had been set up to deal with the incidents and a parliamentary working group would be drafting comments and recommendations.

57. The Committee had referred to numerous cases of human rights violations; however, citizens were fully entitled to file a complaint before the police and the courts. Under Mongolian law, cases involving minors had to be heard in closed courts. As to whether the trials were conducted respecting due legal process, the Prosecutor General's Office had monitored the pretrial investigation procedure, because it was responsible for ensuring the legitimacy of the investigation and the court proceedings. Obviously, the principal element for proving the guilt of a defendant in a criminal case was the evidence. As regards the precise number of cases, some cases had been joined in order to hold just one trial with one set of court rulings.

58. In relation to the complaints of torture and ill-treatment (question 10), statistics had been kept on the number of cases decided or dismissed. The Committee against Torture had considered Mongolia's periodic report on the implementation of the Convention against Torture in November 2010, and had found the definition of torture in domestic legislation rather narrow, which could explain why certain complaints of torture had been dismissed. The Government planned to revise the definition in line with the international treaties and conventions to which Mongolia was a party and, again, would require advice from relevant institutions. In addition, the Government had enacted a special law so that victims of torture were entitled to compensation. Mongolia had received the comments and recommendations of the Committee against Torture very recently and they would be carefully examined.

59. The Investigation Unit of the Prosecutor General's Office was a fairly new body and the Government was endeavouring to provide it with sufficient resources in terms of staff, technical support and budget. The Unit exercised supervisory and monitoring tasks and could investigate cases of abuse of authority by police officers. Mongolia had not established an independent investigation body to investigate allegations of ill-treatment and torture by police officers; however, it would welcome any professional advice from the Committee in that regard.

60. A special programme had been developed to train judges, prosecutors and court personnel, and high priority had been assigned to establishing a specific curriculum and programme for training and retraining police officers.

61. As regards setting up video and audio monitoring systems in detention centres, the State was pursuing a policy of increasing the number of cameras in detention centres. A new detention centre, soon to be opened, had been built in keeping with international standards and would hold up to 1,000 inmates. A video surveillance system would be functioning throughout the centre.

62. In general, physical violence, especially against minors, and lack of legal assistance were issues that could be reinvestigated by the National Human Rights Commission and by the Investigation Unit of the Prosecutor General's Office. Lawyers from NGOs provided free legal advice to detainees.

63. With regard to reports that from 2007 to 2009 some two thirds of all suspects had been detained without court authorization (question 13), there appeared to be some misunderstanding, because all detentions were carried out based on a court decision. Nevertheless, police officers had the right to detain suspects, but were bound to inform the courts within 24 hours and the courts then decided whether the detention should continue.

64. The Prosecutor General's Office monitored and supervised conditions in places of detention, and representatives of the office and of the National Human Rights Commission were entitled to enter those places at any time (question 14). The level of overcrowding in prisons was more or less stable and the opening of the new detention centre should ensure that there were no human rights violations in terms of detention centre conditions. The State prison inspection agency had recommended closing the Denjiin Myanga detention centre completely. It was planned to replace it within the next three years, depending on the Government's financial and human resource capacity.

65. Prior to 2002, the Police Department had been in charge of pretrial detentions (question 15), but the task had been transferred to the agency responsible for overseeing the execution of court decisions. Suspects could be detained for up to 14 days while for accused persons, the maximum period had been reduced from 30 months to 24; for minors, the maximum period was 12 months. The period of detention was determined by the seriousness of the crime, and there was no detention for less serious crimes.

66. Lastly, the United Nations Standard Minimum Rules for the Treatment of Prisoners were applicable in the case of maximum security prisons where inmates were kept in isolation (question 16). Currently, if an individual had been sentenced to death and had then been pardoned, the sentence could be commuted to up to 30 years' imprisonment; moreover, in the case of serious crimes, part of the sentence might be served in an isolation unit. Changes would be introduced into the law enforcement legislation so that prisoners in solitary confinement could ask for their cases to be re-examined based on good behaviour. He confirmed that NGOs, including Amnesty International, were allowed to visit prisoners detained incommunicado.

67. **The Chairperson** invited members of the Committee to pose follow-up questions.

68. **Mr. Iwasawa** thanked the Mongolian delegation for its expressions of solidarity with Japan and said that the very comprehensive answers provided by the delegation indicated its willingness to engage in a constructive dialogue with the Committee.

69. He noted that Mongolia had ratified the First Optional Protocol to the Covenant in 1981, but was surprised to observe that the Committee had not received any individual communications or adopted any decisions or views in relation to the country. Additionally, the delegation had indicated that the Covenant had not been invoked by the courts, which raised the question of whether the Covenant and the individual communication procedure under the Optional Protocol were known in Mongolia. He would be interested to hear the delegation's comments in that regard.

70. Regarding the National Human Rights Commission, it remained unclear who appointed the commissioners and whether they were appointed on the recommendation of specific entities or bodies.

71. **Mr. Thelin**, referring to the events of July 2008 and the joinder of cases, asked why the trials had taken place at different courts and what criteria had been used to join the cases of certain individuals. He also sought clarification of whether all those convicted had been sentenced to pay damages for the very same material damage, namely 11 billion tugrig, and also personal damages to 367 policemen. He understood that a conviction was assured once the prosecutor had put the case to the court, but that left little room for the court to decide on the question of guilt. He would be interested to know why there had been no acquittals.

The meeting rose at 6 p.m.